

MINUTES

ADMINISTRATIVE CONFERENCE

Thursday and Friday, April 17-18, 2014 // Boise, Idaho

The Administrative Conference was called to order on Thursday, April 17, 2014, at 1:30 pm MDT by Patti Tobias. Administrative District Judges in attendance included: Hon. Lansing Haynes, Hon. Tom Ryan, Hon. Timothy Hansen, Hon. Stephen Dunn, and Hon. Darren Simpson. Trial Court Administrators present included: Karlene Behringer, Hon. Jay Gaskill (acting), Dan Kessler, Linda Wright, Suzanne Johnson, and Burt Butler. Chief Justice Burdick, Administrative District Judge John Stegner, and Trial Court Administrator Larry Reiner were unable to attend.

Others joining for all or part of the Conference included: Court of Appeals Chief Judge Sergio Gutierrez; Hon. John Butler, President – District Judges Association; Hon. Michael Oths, President – Magistrate Judges Association; Hon. Rick Bollar, Past-President – Magistrate Judges Association; Hon. Kent Merica – Secretary/Treasurer, Magistrate Judges Association; Roland Gammill; Janica Bisharat; Andrea Patterson; Kevin Iwersen; Michael Henderson; Deena Layne, Cathy Derden; Kerry Hong; Hon. Russell Comstock; Senior Judge Barry Wood; and Patti Tobias.

Judge Darren Simpson was welcomed to his first Administrative Conference, having become the Seventh Judicial District's Administrative District Judge on April 1, 2014.

The [Mission Statement, Values, and Strategic Goals and Major Objectives of the Idaho Courts](#) and [ICAR 43A](#) were reviewed.

A. Approval of Minutes of the February 3-4, 2014 Administrative Conference

IT WAS MOVED BY JUDGE BOLLAR AND SECONDED BY KARLENE BEHRINGER TO APPROVE THE MINUTES OF THE FEBRUARY 3-4, 2014, ADMINISTRATIVE CONFERENCE. THE MOTION PASSED UNANIMOUSLY.

Mission Statement, Values and Strategic Goals and Objectives of the Idaho Courts and ICAR 43A

- At each meeting, the Administrative Conference reviews the Court's Mission Statement and ICAR 43A regarding the role and responsibilities of the Administrative Conference.
- To ensure Administrative Conferences are accomplishing the necessary work for the judiciary, a survey is administered to all Administrative Conference members following each meeting. The Conference reviewed the evaluation summary of the February 3-4, 2014 Administrative Conference, with responses generally favorable. Another survey will be distributed at the end of this conference, providing an ongoing opportunity for feedback.
- Members of the Conference were provided with a copy of [Governance: The Final Frontier](#) by Mary McQueen, President, National Center for State Courts, and asked to review the article in advance of the July Administrative Conference.

Action Item

- At the July 2014 Administrative Conference, members will discuss *Governance: The Final Frontier*.

B. Supreme Court Action on Administrative Conference Recommendations and other Supreme Court Updates by Chief Justice Burdick

1. The recommendation to adopt the Children and Families in the Courts Committee report and recommendations to expand the Idaho Rules of Family Law Procedure statewide were forwarded to the Court for its consideration. Cathy Derden noted that the Court adopted the Idaho Rules of Family

Law Procedure, but delayed statewide implementation until July 1, 2015, while allowing judicial districts the option of implementing the rules sooner by order of the Administrative District Judge. Comments from judges, attorneys, and self-represented litigants operating under the new rules will be sought and reviewed on an ongoing basis until December 31, 2014. Judge Comstock, chair of the Children and Families Committee, reviewed the Court's order, the sample administrative order for use by Administrative District Judges, and offered assistance to those judicial districts considering implementing the rules prior to July 1, 2015.

Action Item

- Judge Comstock will provide FAQs and PowerPoint slides on the IRFLP to be distributed to ADJs and TCAs to assist with implementation efforts within the districts.
2. The recommendations to amend court rules were forwarded to the Court for its consideration, including:
- Idaho Rules of Civil Procedure (IRCP)
 - Idaho Court Administrative Rule (ICAR) 32 dealing with records of the Judicial Branch
 - Idaho Criminal Rule (ICR) 46 addressing an inconsistency between the bail statutes and the rule
 - ICAR 54.2 regarding guardian reports and 54.3 regarding conservator reports

Cathy Derden and Michael Henderson reviewed the orders amending the IRCP, ICR 46 and ICARs 32, 54.2, and 54.3. Specific questions were raised regarding proposed amendments to IRCP 16(l). Amendments to the rule were proposed by the Advancing Justice Committee, reviewed by the Civil Rules Committee, considered by the Administrative Conference, posted on the Bar E-Bulletin, and e-mailed to the Idaho Trial Lawyers Association (ITLA) and civil defense attorneys. All rule amendments will be further highlighted during the legislative roadshow to each district and via Webinar.

3. Idaho Judicial Council: Summary of Informal Ethics Advisory Opinions Year 2013, was included in the Administrative Conference materials, and also published in the March 14, 2014 edition of the *Court E-News*. It was noted that Judge Shindurling had asked the Judicial Council for an opinion on senior judges who also have a private mediation practice, and the potential conflict of interest. An opinion has not yet been released. Burt Butler will follow-up directly with the Judicial Council regarding the status.

Action Item

- Burt Butler will contact Jim Carlson regarding the status of the request for an opinion on senior judges who also have a private mediation practice, and the potential conflict of interest.
4. 2013 Bar Resolutions: The proposed amendments to the Idaho Rules of Professional Conduct and amendments to the Idaho Bar Commission Rules were included in the Conference materials.
5. A Form Update / District Magistrate Commission regarding the appointment of a magistrate judge was included in the Conference materials. The updated form has also been uploaded to IKMS.
6. Senior judge order recommendation from the Administrative Conference. At its February 2014 meeting the Administrative Conference approved a motion recommending the Supreme Court incorporate language into its assignment orders for judges in one judicial district to hear cases in another judicial district that would make those judges exempt from disqualification without cause pursuant to IRCP 40(d)(1)(I)(iii) and ICR 25(a)(9)(iii). Michael Henderson reported on his analysis of the proposed amendments to the assignment orders. It appears the proposed modification of assignment orders is inconsistent with the provisions of court rules. Michael indicated the procedure endorsed by the Administrative Conference could be implemented by the Supreme Court's adoption of a separate order or amendment to the rules stating the Supreme Court may provide that judges assigned to hear cases in another judicial district are not subject to

disqualifications without cause. The Court may wish to consider this alternative, rather than inserting the language suggested by the Administrative Conference into its orders assignment judges to hear cases in another judicial district.

Following discussion, IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE HANSEN TO RECOMMEND TO THE COURT FOR ITS CONSIDERATION THAT IRCP 40(d)(1)(I) AND ICR 25(a)(9) BE AMENDED TO ALLOW THE SUPREME COURT TO MAKE JUDGES EXEMPT FROM DISQUALIFICATION WITHOUT CAUSE WHEN THEY ARE ASSIGNED TO HEAR CASES IN ANOTHER JUDICIAL DISTRICT. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The recommendation to amend IRCP 40(d)(1)(i) and ICR 25(a)(9) to make judges exempt from disqualification without cause when they are assigned by the Supreme Court to hear cases in another judicial district will be considered by the Court.

C. Legislative and Budget Matters

1. FY15 Budget

Roland Gammill outlined the status of the FY14 state general and dedicated fund budgets and revenues, as well as the Court's FY15 budget, appropriations, and other budget matters, including:

- General Fund receipts of \$154.7 million in March 2014 were \$11.1 million more than the projected \$143.6 million. This month's receipts are 12.0% higher than in March 2013.
- Expenditures in all funds for FY2014 are right on pace to where they need to be as of the end of February, with no real surprises on either the revenue or expenditure sides. Revenues continue to be down in the surcharge area as a result of decreases in infraction and civil cases.
- The FY15 maintenance/enhancement items were enacted by the legislature, including HB636 (Supreme Court appropriation), HB509/646 (technology), SB1394/SB1431 (judicial recruitment), as well as other bills of interest SB1382 (Millennium Fund), SB1425 (Permanent Building Fund), and HB581 (Veterans Treatment Courts).
- The Finance Office will be working to close out FY14. All year end bills from the districts, travel, meetings, conferences etc., must be received by June 13th to ensure time for payment out of FY14.
- The Conference was provided with proposed district allocations for FY15. A separate conference call is scheduled for **May 21st** to permit members of the Conference time to review and provide feedback on the proposed district allocations before taking any action. Additional information regarding the conference call will be distributed to members of the Conference.
- In May, all members will receive a letter from the Finance Office asking that FY16 budget requests be submitted by June 27th. Those initial FY16 priorities will be summarized and provided to the July Administrative Conference for further review and prioritization.

Action Item

- Members of the Conference will receive additional information regarding a **May 21st** conference call to take action on proposed district allocations.

The Conference also discussed any proposed FY15 allocation decisions.

(Senior Judges, Problem-Solving Courts, Family & Children Services, Court Assistance Office, Guardian ad litem, Guardianship and Conservatorships, Domestic Violence Courts, and Court Interpreters, and Employee Compensation recommendations / Andrea Patterson.)

The legislature appropriated funds for a one percent ongoing salary increase and a one percent, one-time bonus for state employees. Both awards are to be based on merit, with flexibility in distribution as determined by agency directors. The Judiciary's appropriations bill included language to encourage consideration of employee compensation. Andrea Patterson outlined FY15 compensation recommendations for court employees.

Following discussion, IT WAS MOVED BY JUDGE DUNN AND SECONDED BY DAN KESSLER TO FORWARD THE RECOMMENDATION REGARDING THE ONGOING 1% INCREASE, BEGINNING A MONTH EARLY (JUNE 1, 2014) USING YEAR-END SAVINGS, TO THE COURT FOR ITS CONSIDERATION. THE MOTION PASSED UNANIMOUSLY.

Following further discussion, IT WAS MOVED BY JUDGE GASKILL AND SECONDED BY JUDGE BUTLER TO FORWARD THE RECOMMENDATION AS OUTLINED FOR SHORT-TERM COMMENDABLE AMOUNTS FOR STATE PAID JUDICIAL EMPLOYEES TO THE COURT FOR ITS CONSIDERATION. THE MOTION PASSED UNANIMOUSLY.

And after additional discussion, IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE GASKILL TO FORWARD THE RECOMMENDATION FOR LAW CLERK SHORT-TERM COMMENDABLE AMOUNTS AND AN ALTERNATIVE RECOMMENDATION TO THE COURT FOR ITS CONSIDERATION. THE MOTION PASSED UNANIMOUSLY.

2. Other Legislation of Interest to the Courts

Senior Judge Wood reported on legislation of significant interest to the Courts, including:

- a. SB 1394 – Judicial Recruitment and Compensation / Trailer SB 1431: The chairs of the germane committees advocated strongly for the Judiciary. Concurrent with this effort was an effort of the legislature to set the salary for constitutionally elected officers for the next four years. After providing substantial research and multiple meetings with legislators, including those on the respective Legislative leadership teams, a two-part resolution was reached and written up as SB 1394 and SB 1395. No further input was invited beyond what was reported to the Administrative Conference following the February 4th meeting. Consideration will be given to including a session on this topic at the upcoming judicial conference.
- b. HB 509 – Court Technology / Trailer HB 646: Funding for the Court's new technology to replace ISTARS is a two pronged approach based upon a five-year business plan to purchase and implement the new hardware, software, and infrastructure necessary to go state-wide, followed by on-going funds needed to operate the system well into the future. The first prong is "multiple one-time general fund appropriations", the first of which was included in the Court's overall appropriations bill HB 636. There will be four additional "one-time general fund requests" over the next four years. HB 509 provides the second prong of funding which is the additional ongoing funding required for the Odyssey system. This legislation provided amendments to various statutes including changing the name of the fund, an increase in civil filing fees to create the source of revenue, and annual reporting to the Legislature. The trailer bill authorizes spending authority from the newly named Court Technology Fund.
- c. HB 447 – Guardianships and Conservatorships: This legislation removes several detailed provisions regarding the content of reports, inventories and accountings filed by guardians and conservators and provides that such filings shall be under oath or affirmation and shall comply with Supreme Court rules; also amends I.C. § 15-5-314 to provide that when court visitor services are provided by court

personnel, compensation paid for such services shall be deposited in the Guardianship and Conservatorship Project Fund.

- d. HB 446 – Parenting Coordinators: Amends I.C. § 32-717D to provide that a court may award attorney’s fees and costs to the prevailing party on a motion to set aside or modify the decision of a parenting coordinator.
- e. SB 1375 – I.C. § 19-2604 – Suspension of Judgment and Sentence: Amends I.C. to extend and further define the persons who are eligible to have their convictions set aside or reduced; clarifies that persons who have completed their probation terms may seek relief; requires a showing of good cause rather than compatibility with the public interest to obtain relief.

The [Summary of 2014 Selected Legislation of Interest to the Judiciary](#) was distributed at the Conference and published in the April 11, 2014 *Court E-News*. The Conference discussed some legislation, with a particular emphasis on:

- f. SB 1357 – Justice Reinvestment (JRI); summary of provisions; timelines
- g. SB 1393 – Special Oversight Committee / JRI
- h. HB 542 – Public Defense Act
- i. HCR 40 – Public Defense Reform
- j. Pending matters that we may see again next session, including:
 - > Reclassification of certain crimes - some felonies to misdemeanors and some misdemeanors to infractions HB 435 and 463 (2014)
 - > HB 449 (2014) Garnishments
 - > CP legislation, including the proposed 72 hour hearing requirement and a law enforcement consult – HB 464 and 465 (2014).
 - > Medicaid “re-design”
 - > Juvenile issues; amend I.C. SB 1290 (2014) to bring all underage alcohol and tobacco into JCA
 - > Fixed time reduction under I.C. § 19-2513.

3. Status of Retirement Issues

- a. Transfer of JRF to PERSI pursuant to HB 660 effective July 1, 2014: Andrea Patterson updated the Conference regarding the events following PERSI’s notice to the Secretary of State that the JRF had received an IRS determination that it was a qualified plan: (1) modifying the JRF’s funding structure, and (2) transferring the JRF’s administration to PERSI. Despite the significant impact of changing the JRF’s economic assumptions to match those of PERSI, the legislature worked very closely with the courts to complete the transition by appropriating additional funding in the form of an increased employer contribution rate. Additionally, the employee contribution will increase to 10.23%.
- b. PERSI decisions regarding eligibility to retire: Andrea Patterson reviewed the January 21, 2014 letter to Don Drum (of PERSI) articulating the impacts on district and appellate judges who are members of JRF and have prior PERSI service. SB 1312 was passed this year, and tax counsel will be consulted to better understand the impact of this legislation. To better prepare for upcoming retirements, it was suggested that an inventory of all judges be completed to ascertain any prior PERSI service and the nature of that service (state or local government).

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE BUTLER THAT THE COURT SEEK OUTSIDE COUNSEL TO REVIEW THE RETIREMENT ISSUES, AND THAT ALL JUDGES BE ASKED ABOUT ANY PRIOR PERSI SERVICE IN ORDER TO DETERMINE FUTURE RETIREMENT BENEFIT IMPLICATIONS. THE MOTION PASSED UNANIMOUSLY.

Action Items

- All judges will be surveyed regarding their prior PERSI service.
- The Court will retain tax counsel to review SB 1312 and provide the Court with a better understanding of the impact of this legislation, and other potential changes.

4. Legislative Protocol

A copy of the protocol entitled [“Building Productive Legislative-Judicial Relationships: A Protocol for New Judges”](#) (last updated September 1, 2011) was included in the Conference materials for review and discussion by the Administrative Conference. Suggestions for improvement or refinements to the protocol included:

- encouraging judges to follow legislative proceedings remotely via the audio/video feed available on the Legislature’s website
- emphasizing the need for members of the Judiciary to advance Court budget and legislative priorities and to notify Patti Tobias or Judge Wood to coordinate any other communications to the legislature.
- encouraging participation on legislative review teams to assist legislators in the review of proposed legislation as appropriate / requested

Action Items

- Administrative District Judges and Trial Court Administrators were asked to review the protocol with judges in their districts, seeking suggestions for improvements or refinements.
- The protocol will be reviewed during legislative review visits to each judicial district.
- A draft of proposed updates to the protocol will be included on the agenda for the July Administrative Conference for final review.

5. Appreciation to all who contributed during the legislative session, including:

- a. Administrative Conference, Supreme Court
- b. Judges, Court Administrators
- c. State Bar, Commissioners, individual attorneys
- d. Legislative Review Teams
- e. Legislative News, bill tracking, bills of interest
- f. Team of lobbyists

Patti Tobias recognized the many individuals who contributed to the success of the legislative session, including judges, court administrators, legislative review teams, and others. She made a special presentation to Senior Judge Barry Wood, for his unwavering, extraordinary efforts during this most productive legislative session. The Administrative Conference echoed their appreciation with a standing ovation for Judge Wood.

Judge Wood and Patti Tobias encouraged the Conference to write thank you notes to the many legislators who contributed to a productive session, conveying appreciation for their support during this session, and inviting them to contact you if they have any questions.

Action Item

- Administrative District Judges and Trial Court Administrators were encouraged to write thank you notes to the many legislators who contributed to a productive session, conveying appreciation for their support during this session, and inviting them to contact them with any questions.

6. Judge Copsey and Security Concerns – I.C. § 19-5801 et seq.

Michael Henderson reported to the Administrative Conference on his research of this chapter which provides for address confidentiality for law enforcement officers, and which Judge Copsey and others have suggested might be made applicable to judges. The provision was adopted in 2010 and specifically excludes elected officials from its provisions. Members of the Conference were reminded of the process to report any threats to ISP Officer Kirk Grothaus, who serves as the Judicial Protection Officer.

Action Items

- Michael Henderson will report further to the conference at the July meeting on the implementation of the chapter which provides for address confidentiality for law enforcement officers and similar statutes in other states.
- ISP Officer should be advised immediately of any security threats or concerns by judges and state court personnel.

7. Uniform Business Practices

Janica Bisharat updated the Conference on the status of the uniform business practice report to implement legislative and rule changes effective July 1, 2014, and reviewed a current working draft of items which will have an impact on judges and/or clerks.

Action Item

- A new uniform business practice report to implement legislative and rule changes will be distributed statewide prior to the July 1, 2014, effective date.

8. Legislative and Rules Review: District Schedule

The Conference reviewed the proposed schedule to acquaint all judges with legislative and rule changes effective July 1, 2014.

At 5:00 pm MDT, Judge Dunn moved to adjourn the Administrative Conference until 8:30 am MDT tomorrow morning, Friday, April 18, 2014. The Administrative Conference was reconvened by Patti Tobias at 8:30 am MDT, Friday, April 18, 2014.

D. Achieving the Court's Strategic Goals and Objectives1. Consider updating the Court's Strategic Goals and Objectives

Janica Bisharat presented recommendations to update the Court's Strategic Goals and Objectives. The intent of the review and resulting proposed amendments is to ensure the current goals and objectives reflect the work of the Judiciary over the next couple of years. It was determined that language should be included or strengthened for the following areas: access to justice (court assistance and language access services), guardianship and conservatorship, and technology.

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY DAN KESSLER TO RECOMMEND ADOPTION OF THE PROPOSED AMENDMENTS TO THE COURT'S STRATEGIC GOALS AND OBJECTIVES. THE MOTION PASSED UNANIMOUSLY.

Action Item

- The Courts Strategic Goals and Objectives will be forwarded to the Court.

2. Ensure Access to Justice / Enhance the ability to efficiently conduct court business by developing technologies, especially electronic filing of all court documents.

Chief Justice Burdick and Kevin Iwersen were invited to update the Conference on recent developments to fulfill the IT Strategic Plan.

A detailed technology update was included in the Conference materials. Kevin Iwersen reported on the status of the project to modernize the case management system, including:

- The Court Technology Committee's review of the Odyssey Fit Assessment results and approval of 2,840 development hours with Tyler Technologies to resolve critical gaps with the Odyssey software. The contract with Tyler Technologies allows for up to 4,080 development hours at no additional cost.
- Tyler Technologies is continuing to develop estimates for the court's integration needs with other judicial partners. The Court Technology Committee recommended a number of business priorities for new (future or enhanced) integrations.

- Since February 2014, the Design and Implementation Team has completed workshops for case management configuration, integration fit analysis, and financial configuration. Numerous additional project workshops are planned over the next six months, including supervision, jury, forms, reports, appellate, security integration, and more.
- A Financial Summit was held in March with elected clerks, auditors and treasurers from Ada, Canyon, Gem, and Twin Falls counties to discuss the use of Tyler's Financial Manager software module for all court financial processing. A Financial Best Practices group will be established to continue to explore the optimal options for implementing Financial Manager statewide.
- The case management modernization project remains on schedule, with a target deployment to the Twin Falls County courts (pilot court) in Quarter 4, Fiscal Year 2015 (May 2015).
- Some members of the Design and Implementation Team attended the Tyler's Users Conference. The conference was very well done and proved valuable in terms of learning more about the software, networking with other Odyssey users, brainstorming about future possibilities, and planning for deployment of the system. One area where additional work will need to be done is developing a comprehensive change management plan and providing the associated training.

Kevin also reported on the status of efforts to build out the network infrastructure and to provide for needed disaster recovery at a site in Idaho Falls. Finally, he described the various personnel needs that will be critical to the success of these various technology projects and current efforts underway to build human resource capacity in that regard.

A question was posed regarding courtroom remodels and the possibility of obtaining necessary resources (technical assistance and hardware) to complete these projects. Trial court administrators were asked to notify Kevin as soon as possible regarding these types of efforts so that he is able to budget the appropriate resources in advance.

Patti Tobias thanked Kevin, the Court Information Division, and the many others involved for their extraordinary efforts. The Administrative Conference will continue to receive progress reports on these technology projects.

3. Provide Timely, Fair, and Impartial Case Resolution / Advance justice by resolving cases as early as possible, while guaranteeing the rights of the parties.

Senior Judge Barry Wood and Administrative District Judge Stephen Dunn updated the Conference on recent developments. First, the statewide criminal caseflow management plan has been drafted and approved by the Advancing Justice Committee and will be recommended for adoption to the Administrative Conference at a later date.

The development of individual districtwide felony case flow management plans were undertaken at the April 15-16 Caseflow Management Workshop, and will be further developed within the respective districts. District plans will be submitted by July 1 so they may be reviewed by the July 2014 Administrative Conference. In addition, each district will submit their plan to complete the civil caseflow management plan and the association timelines. Following the completion of the felony criminal caseflow and civil caseflow management plans, districts will complete plans for misdemeanor criminal, child protection, juvenile, and family law cases. The Supreme Court is exploring the feasibility of offering additional workshops to assist ADJs and TCAs in their efforts to complete these plans.

Following a presentation to the Litigation Section of the Idaho Bar in March, Judges Dunn, Moeller, and Wood have now been requested to make a presentation on time standards and caseflow management plans to the State Bar at their annual meeting now scheduled for July 17.

Patti Tobias reported on national efforts to develop proposed time standards for appellate cases. Once this work has been completed, the proposed standards will be considered by the Supreme Court and Court of Appeals.

Following discussion, IT WAS MOVED BY JUDGE WOOD AND SECONDED BY LINDA WRIGHT THAT: 1) THE TCA OF EACH JUDICIAL DISTRICT SUBMIT THEIR RESPECTIVE DISTRICT WIDE FELONY CASE FLOW MANAGEMENT PLANS BY JULY 1, 2014 FOR DISTRIBUTION SO AS TO FACILITATE THEIR REVIEW AT THE JULY ADMINISTRATIVE CONFERENCE; AND 2) THAT PLANNING AND TIMELINES FOR THE DEVELOPMENT OF A CIVIL CASEFLOW MANAGEMENT PLAN WILL BE INCLUDED AND WILL BE DISCUSSED AT THE JULY ADMINISTRATIVE CONFERENCE. THE MOTION PASSED UNANIMOUSLY.

Action Items

- The Trial Court Administrator of each judicial district will submit their respective districtwide felony case flow management plan, as well as the plan and associated timeline for completing a civil caseflow management plan, to Janica Bisharat by July 1, 2014.

4. Review Revised Policy Manual

Members were reminded of the discussion that took place at the February Administrative Conference regarding changes to the Policy Manual and the vote to develop a separate Policy Manual for justices and judges. Andrea Patterson presented the Employee Policy Manual at this Conference for final consideration, noting the proposed Policy Manual for Justices and Judges will be distributed to all judges in May for comment, and will be submitted for final consideration at the July Administrative Conference. The Senior Judge Manuals and other remaining policies will be considered at the October Administrative Conference.

Following discussion, IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE GASKILL TO RECOMMEND ADOPTION OF THE EMPLOYEE POLICY MANUAL DATED APRIL 3, 2014, WITH TECHNICAL AMENDMENTS AS DISCUSSED. THE MOTION PASSED UNANIMOUSLY.

Action Items

- The Policy Manual for Judicial Branch Employees will be submitted to the Court for its consideration.
- The Policy Manual for Justices and Judges will be distributed to all judges in May for comment, and submitted for final consideration at the July Administrative Conference.
- The Senior Judge Manuals and other remaining policies will be considered at the October Administrative Conference.

5. Ensuring the Highest Level of Service by Recruiting Highly Qualified Court Personnel.

- a. District Magistrate Commissions: How can the Administrative Conference best support the recruitment and selection of highly qualified magistrate judges?

The Judicial Council has implemented some strategies to improve recruitment, including holding recruitment workshops and reopening recruitments when not enough applicants have applied for a judicial vacancy. Patti Tobias invited the Conference to share other suggestions or observations about how recruitment may be improved.

One concern noted was with respect to the Bar survey. The overall response rate to the survey is very small and the quality of responses is not always productive. A request was made to complete an analysis of the response rate.

Judge Oths reported on a workgroup charged with reviewing the selection process for district judge vacancies. They have been interviewing candidates regarding their experience with the selection process—before and following completion of selection. It was noted that a similar review process would be helpful for district magistrate commissions.

Following discussion, IT WAS MOVED BY JUDGE DUNN AND SECONDED BY KARLENE BEHRINGER TO DECREASE THE TIMEFRAME FOR ATTORNEYS TO RESPOND TO THE BAR SURVEY FOR INITIAL APPLICATIONS AND PERFORMANCE REVIEWS TO TWO WEEKS. THE MOTION PASSED UNANIMOUSLY.

Action Items

- Trial Court Administrators will complete an analysis of the rate of responses to the Bar survey.
 - The timeframe for attorneys to respond to the Bar survey for initial applications and performance reviews will be adjusted to two weeks.
 - Further magistrate judge recruitment discussions will be scheduled.
- b. Janica Bisharat reported to the Conference that the proposed global memorandum of understanding (MOU) for district court personnel is currently pending review by the Idaho Association of Counties. The Counties and Courts Committee will take the matter up again during its next meeting scheduled for May 9th. It is hoped a final draft will be completed in advance of the July Administrative Conference.
- c. Ada County Elected Clerk Chris Rich requested a review of the protocol for maintaining relationships with local officials and a review of the Code of Conduct that applies to District Court Employees paid by the county. Janica Bisharat explained a gender bias concern was raised regarding the wording of item number 5. The Conference was asked to consider an amendment to the language to address this concern.

Following discussion, IT WAS MOVED BY JUDGE BOLLAR AND SECONDED BY JUDGE GUTIERREZ TO ADOPT THE *PROTOCOL FOR ESTABLISHING AND MAINTAINING EFFECTIVE RELATIONSHIPS WITH LOCAL OFFICIALS* AS AMENDED. THE MOTION PASSED UNANIMOUSLY.

Action Item

- A revised Protocol for Establishing and Maintaining Effective Relationships with Local Officials will be distributed to Administrative District Judges and Trial Court Administrators.

E. Other Business

1. Hayes v. Haynes: A memorandum opinion and order granting summary judgment was included in the February materials. Michael Henderson reported that no appeal was filed, so the order stands. He also noted this is a useful opinion which outlines responsibilities for county officials, and will be included on the agenda for the May 9 Courts/Counties Committee meeting.
2. State Crime Lab: Judge Oths updated the Conference on efforts to improve the timeliness of various lab results. A panel discussion is planned for the upcoming Magistrate Judges Conference. In the last month, prosecuting attorneys and public defenders have reported noticeable progress has been made on timeliness. The ILIMS (Idaho laboratory information management system) is designed to allow prosecuting attorneys immediate access to the status of lab results. The prosecuting attorneys have expressed concern that the system is not user friendly. A question was raised regarding the length of various tests, and whether some take longer than others. Judge Oths will provide another update to the July Administrative Conference.

Action Item

- Judge Oths will provide a further update on the timeliness of state crime lab reports at the July Administrative Conference.
3. Counties and Courts Committee: Michael Henderson discussed the legislation that had been drafted by the Ad Hoc Counties/Courts Shared Employees Committee in 2007, but that ultimately had not been recommended by that Committee, addressing the hiring, supervision and training of bailiffs and court

security officers. Members of the Conference also received revised, draft legislation that was recently proposed by the Sheriffs Association. The guidance and advice of the Administrative Conference on such proposed legislation was sought. Overall, the position of the Conference has not changed. The Counties and Courts Committee will meet on May 9, and the Administrative Conference will be kept informed of the discussions and any further legislative proposals on this subject.

4. Election Developments

The Conference discussed election related issues and developments, noting the Bar survey closes April 28, and reminding members of the [Protocol for Communications Regarding Unwarranted or Unfair Attacks on the Judicial System](#). It was pointed out that there is a discrepancy in the language of the qualifications of a district judge (admitted to practice law) and the Bar's definition of inactive status. Michael Henderson will include this item on the inventory of potential legislation to review in July.

Action Item

- Michael Henderson will add to the legislative inventory the proposed amendment to the qualifications of a district judge.

5. Proposed "Money Judge" Rule. The Conference considered a draft of a rule that has been developed by the Administrative District Judges with the assistance of Judge Barry Wood and Michael Henderson. The rule would address the procedure for indigent defendants to request investigative or expert services at public expense.

IT WAS MOVED BY JUDGE DUNN AND SECONDED BY JUDGE WOOD THAT THE RULE AS DRAFTED BE RECOMMENDED TO THE SUPREME COURT FOR ADOPTION WITH AN AMENDMENT TO SUBSECTION (E) PROVIDING THAT A JUDGE MAY APPOINT ANOTHER JUDGE TO CONSIDER A DEFENSE MOTION FOR ADDITIONAL SERVICES.

Judge Hansen pointed out that the provision for ex parte filing of a defense motion might conflict with subsection (g), providing for notice to the public defender in some cases. Judge Haynes noted that it might be cleaner and more consistent if the Administrative District Judge made the appointment of a "money judge" when such an appointment was appropriate.

After further discussion, JUDGE DUNN AMENDED HIS MOTION TO STATE THE ADMINISTRATIVE CONFERENCE RECOMMENDS THE ADOPTION OF THE RULE AS DRAFTED, WITH THE ONLY AMENDMENT BEING THAT SUBSECTION (d) STATE THE MOTION SHALL BE SUBMITTED EX PARTE, EXCEPT AS PROVIDED IN SUBSECTION (g). THE MOTION PASSED WITH JUDGES GASKILL AND MERICA VOTING NO. JUDGE HANSEN ABSTAINED.

Action Item

- The proposed "Money Judge" Rule will be forwarded to the Court for its consideration.

6. Victim Notification by Prosecuting Attorney: Burt Butler and Linda Wright may submit proposed statutory amendments relating to victim notification by the prosecuting attorney for consideration at the April Administrative Conference.

Action Item

- Due to time constraints, this issue will be added to the July Administrative Conference agenda, and Michael Henderson was asked to include this proposed amendment on the inventory of potential legislation.

7. Office of Performance Evaluation (OPE) Report: *Confinement of Juvenile Offenders*

Judge Mark Ingram was asked to update the Conference on the report issued recently by the Office of Performance Evaluation (OPE) regarding juvenile offenders, and noted the following points:

- A review of the numbers of juveniles in custody was found to be untrue; that Idaho's numbers had dropped similarly to other states.
- Some recommendations were made to clarify whether or not the probation period runs during confinement in state custody; Rule 17 of IJJR addresses that, to do at time of sentencing, maximum 36 month period runs during period of confinement; some judges would prefer to have time available on return from custody; Juvenile Justice Advisory Team will review the rule and consider allowing for an exception.
- Commitment criteria / Rule 19 draws most fire; a community-based program may be neither available nor appropriate; frequently based on why juvenile is committed; recommendation is to tighten up criteria to be more definitive.
- Recommendation to try and create uniform criteria for cases diverted to outside the juvenile justice system; Juvenile Justice Advisory Team will review this as well.

Judge Ingram also reported he will be leading an Idaho team to Seattle for a Juvenile Justice Reform Summit in May.

8. Reviewed Administrative Conference Calendars and Schedules

The Administrative Conference was reminded that its February meeting is scheduled to immediately follow the Clerks/Judges Conference, which is set by the Idaho Association of Counties to fall on the first Monday in February.

9. Clerks and Judges Conference of February 2014: The evaluation was included in the Conference materials.

10. Procedure for Issuance of Continuing Garnishments: Judge Stegner earlier requested the Administrative Conference review and discuss the correspondence received regarding the procedure for the issuance of continuing garnishments. Patti Tobias reported this procedure was discussed and resolved at the Administrative District Judges meeting on April 17, 2014. Judge Hansen will be responding.

11. Proposed Rules: IJR 40. Because the proposed amendments to IJR 40 are still being considered by the Juvenile Rules Committee, no discussion or action was required at this time.

12. I.C.R. 33 Proposed Rule on Discretionary Jail time. This proposed rule was developed by a Criminal Rules Subcommittee chaired by Justice Eismann. The subsections of the proposed rule were explained and comments sought. Judge Hansen commented that limitation on the number of days would be problematic for problem-solving courts that tend to use the time for completion of programming and asked for an exception for these courts. It was suggested that any form developed require the probation officer to designate if the time was for purposes of discretionary jail time or a revocation as the magistrate judge may set bond if it is for a revocation. Several commented that more than five days was needed. It was also suggested that, since the rule might be subject to a matrix for sanctions that has not yet been developed, it might be advisable to hold the rule amendment pending completion of this work. It was suggested that additional review by the Felony Sentencing Committee and the Misdemeanor Sentencing Advisory Team would be appropriate.

Patti Tobias will distribute a copy of the document written by Hon. Roger Warren, as well as Justice Eismann's analysis of discretionary jail time.

Action Items

- The proposal for ICR 33 relating to discretionary jail time will be forwarded to the Felony Sentencing Committee and the Misdemeanor Sentencing Advisory Team for additional review.
- Patti Tobias will distribute a copy of the document written by Hon. Roger Warren, as well as Justice Eismann's analysis of discretionary jail time to members of the Conference.

F. Discuss Proposed agenda and plans for the July 15-16 2014 Administrative Conference

- Invite local judges (6th and 7th district) to the State Bar's Annual Meeting (July 16-18, 2014)
- Court Facility Assessments
- Judicial Performance Evaluations committee recommendations
- National Center for Access to Justice released its "Justice Index"
- Governance: The Final Frontier
- Courthouse Violence in 2010-2012 (Kirk Grothaus to report)

July 15-16, 2014 / Fort Hall

Tuesday, July 15Administrative Conference / Fort Hall
 Tuesday, July 15Dinner with Bar Commissioners / Fort Hall
 Wednesday, July 16Administrative Conference / Fort Hall
 Wednesday – Friday, July 16-18State Bar Annual Meeting / Fort Hall

Note: Thursday, July 17 – Litigation Section – Advancing Justice

G. Discussed plans for Upcoming Dates of Importance to the Administrative Conference**October 2014 / Boise**

Thursday, October 16 (afternoon)Administrative Conference
 Friday, October 17 (morning).....Administrative Conference

February 2-3, 2015 / Boise

Monday, February 2, 2015Clerks/Judges Conference + Clerks Training / Boise
 Tuesday, February 3, 2015Administrative Conference / Boise

April 16-17, 2015 / Boise

Thursday, April 16Administrative Conference / Boise
 Friday, April 17Administrative Conference / Boise

July 21-22 2015 / Sun Valley

Tuesday, July 21Administrative Conference / Sun Valley
 Wednesday, July 22Administrative Conference / Sun Valley
 Wednesday – Friday, July 22-24State Bar Annual Meeting / Sun Valley

With no further business to come before it, IT WAS MOVED BY JUDGE DUNN TO ADJOURN THE ADMINISTRATIVE CONFERENCE AT 11:57 AM MDT.